

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

Antuan Cornell Riggs,

Plaintiff,

v.

United States of America

Defendant.

Case No. 1:25-cv-2545-RMG

**ORDER**

Before the Court is the Report and Recommendation (R&R) of the Magistrate Judge recommending that the Court summarily dismiss this action because Plaintiff has no standing to assert his claim and has failed to follow the Court's order to amend his complaint and failed to provide a summons and forms for the United States Marshal to effect service. (Dkt. No. 13). Plaintiff has failed to file a response to the R & R.

**I. Background**

Plaintiff filed a declaratory judgment action seeking to have the Court find the definition of a "serious violent felony" under 18 U.S.C. § 3559(c)(2)(F) to be unconstitutionally vague. Defendant is presently a federal prisoner serving a 108 month sentence after pleading guilty to felon in possession of a firearm, possession with the intent to distribute methamphetamine, and using and carry a firearm in relation to a drug trafficking crime. The Magistrate Judge determined that Plaintiff is seeking an advisory opinion and he has failed to assert facts to demonstrate he has standing to challenge the constitutionality of the statute. (Dkt. No. 13 at 5-8). The Magistrate Judge further found that Plaintiff had failed to comply with the Court's order to amend his complaint and to complete the necessary forms to initiate the litigation. (*Id.* at 8-9).

## II. Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee's note).

## III. Discussion

The Court finds that the Magistrate Judge has ably summarized the factual and legal issues in this matter and has correctly concluded that Plaintiff's action is subject to be summarily dismissal without prejudice.

## IV. Conclusion

In light of the foregoing, the R&R is **ADOPTED** as the Order of the Court (Dkt. No. 13) and this action is dismissed without prejudice.

**AND IT IS SO ORDERED.**

s/ Richard Mark Gergel  
Richard Mark Gergel  
United States District Judge

June 23, 2025

Charleston, South Carolina